9/3

Previous references.

Ch 117-03-1803 1906-07

(Courts)

Ch File No. 142-06

Serial Nos. 1-3

Later references.

Ch 256-08-1104

Ch 9.5-10

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-3

Part B. for February 1907.

SUBJECT.

Abolition of the Central Nazir System

D.R.A. Subj No 339c6.

	To the Registrar, Chief Court No 9/14-11 & 27-11-06 Requests that Govt may be favoured with the opinion of the Chief Court in the matter
2	From the Same. No 3405/187 & 10-12-06
G. R. S. 58	Forwards copies of the opinions of judges in the matter.

P.T.O

3 To the Registrar of the Chief Court of Mysore.
" " Commr of Chmiopa & Mysore
NOJ2547-51 & 22-2-37

Directs that a further trial be given to the Central Nazarat system for another two years and that a report as to the results of the working be submitted at the end of the period.

G.R.S. 11] 1906.

GENERAL AND REVENUE SECRETARIAT.

(III Courts)

NOTES.

C5 File No. 142-06

FILE HEADING.

D R A Subject No 33 of 06. Abolition of the Central Nazir System

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

1 To the Registrar, Chief Court. No J 1411 dt 27.11-06.
Requests that Govt may be favored with the opinion of the Chief Court in the matter.

J 1564 2 From the same: no 3405/187 dated 10.12.06. with 1/21
Forwards ~~the opi~~ copies of the opinions of the Judges

NOTES—First sheet.

GPB—30,000—20-3-06.

G.R.S. 12]
General and Revenue Secretariat.

No. File No. 142 of 1906

Serial No.

of the Chief Court.
Subd for orders.

SW 31-12-06. 1 I think the Central Nazarat System may be given a further trial for another two years and on the expiration of that period the Chief Court may be requested to state whether any change is called for.
Draft Order Subd to Govt for approval

W.
3/1/07

2 Make clean copy & draft amended & submit it to the Secretary to the Council —

3-1-07

18-1 11-1-07 Madanjit

2 (Secretary) 3 The draft may be approved - [illegible] in view of some newspaper reports of detailed criticisms of the system on the spot by some Judges of the Chief Court and the suggestions made by the Deputies inquiring whether as a result of such local investigations the Judges are likely to have modified their opinions in any material respect

W 3/1/07

3193

4 Draft may issue

1/1/07

3703 9-2-07

Note—Contn. sheet

GPB—50,000—23 10-05

W. 21/1/07

G.R.S. 12]

General and Revenue Secretariat.

Ch File No. 142 of 1906

Serial No.	
3	To the Registrar of the Chief Court of Mysore the Dy Commrs of Shimoga and Mysore No J 2549-51 of 22.2.07 Directs that a further trial be given to the Central Nagar[illegible] system for another two years and that with a report as to the result of the working to be submitted at the end of the period.

Secy to the Govt

Note—Contn. sheet

MGCPB—50,000—24-7-05

CS 742-06-1

SUBJECT No. 33.

Abolition of the Central Nazir system.

Messrs. V. Raghavachar, Advocate, Nanjangud Taluk, and S. K. Balakrishna Rao, B A., LL.B,. Shimoga Municipality.

Summary of discussion.—The public are now put to much trouble by the delay caused in the disposal of Civil cases, since the summonses, warrants and other processes are not properly served by the establishment attached to the Central Nazir's office. It is therefore prayed that this system be abolished and all the Subordinate Courts given necessary process peons as was done formerly.

By a recent rule, the Chief Court have directed that advances should be made to Central Nazirs for meeting the batta expenses of witnesses. After the hearing the Court Nazir will not be in a position to return the unspent batta, as the same will not be returned with the process and as the Court Nazir will have to await the Central Nazir's monthly bill. The Central Nazirs may be placed under the Munsiffs, instead of under the District Judges, as the latter will have to be absent from the head-quarters and cannot accordingly exercise necessary control at all times.

Mr. Raghavachar presented a written representation on the subject. Mr. A. Anniah Pandit said that the Central Nazir system had not resulted in any savings in expenditure, and suggested that the establishment may be placed under the Munsiff.

The First Councillor said that under the present rules processes issued from different Courts for persons in the same or neighbouring villages could be served by the same man, and this secured economy. Further, that if large process establishments are placed under the Munsiffs, it often happens that they are liable to be employed on other than their legitimate work.

Reply of Government.—The representation will be referred to the Chief Court for consideration. It is understood at the same time that the new system has not yet been fully brought into working order, and that certain rules ensuring prompt service of processes have been newly framed.

J 1564

Bangalore, Dated 10th December 1906.

From

The Registrar of the

Chief Court of Mysore,

Bangalore.

To

K.S.Chandrasekhara Iyer Esquire,

Secretary to Government,

General and Revenue Departments.

Sir,

Referring to your docket No.J 1411 dated the 27th November 1906 inviting attention to subject No.33 of the Representative Assembly Proceedings of 1906 and the reply of Government thereto re abolition of the Central Nazir Syster, I am directed to forward herewith copies the opinions of the Judges of this Court in the matter.

I have the honor to be,

Sir,

Your most obedient servant.

For REGISTRAR

Central Nazir System.

Mr. Justice H. V. Nanjundayya:- Each Court had its own process establishment in full, whatever its jurisdiction was in Original Suits. The processes of appellate cases only would be sent to the Lower Court concerned for service; but all Original processes were to be directly served. Thus a District Court which may have only a dozen cases in a year kept its own Amins and peons, though the few processes which these cases gave rise to, could be easily served by the establishment of the Munsiff within whose jurisdiction, the party resided.

The idea of the new system was to economise the establishment by entrusting all the processes of all the Courts to a single agency in each area, instead of employing different agencies for different jurisdictions. As a matter of theory, there can be nothing to be said against this. In fact, it would perhaps be possible to carry this consolidation further, either by serving processes by post or by means of the Taluk Revenue agency, both of whom have a wide spread organisation reaching the different places of every Taluk. But it is the expediency of keeping the serving establishment within the thorough control of the Courts that render such an extension inadvisable.

The result of the experience hither to seems to be that there is no saving in cost. The matter of control too has not been found satisfactory. It is proposed in these papers that the Central Nazir should be placed under the District Judge instead of under the Principal Munsiff. I doubt if this would be an improvement. It will be difficult for all subordinate Courts to exercise the same degree of control when the process establishment is directly under the District Judge, as they could on their own establishments. If on the other hand, all process establishments are primarily parts of Munsiff's Courts, higher Courts could effectually control them, so far as processes emanating from their own Courts were concerned.

The so-called ~~central~~ Central system practically exists only in the Head Quarter Stations where there are two or more Civil Courts. Though in other places, the Nazir is styled a deputy Nazir, the system is the same as was in vogue formerly. I do not see the exact significance of the term Central Nazir system. I would rather style it the single process establishment system; and propose that the whole process establishment be worked somewhat on the following lines. There is not much novelty in the plan, and I believe, that whether it may or may not contain any important modifications, this would be the proper manner of working the thing.

(1) Only those Courts which exercise the lowest grade of Original jurisdiction should have process establishments.

(2) Where there are two such Courts, in the same place, they may both have separate establishments, with local jurisdiction fairly divided.

(3) All processes of the higher Courts (whether Original or appellate) should be sent for service to them.

(4) The higher may also exercise the same disciplinary powers in respect of such processes as if the establishment were directly under them.

(5) In urgent cases and special cases the higher Courts may send special process servers, levying additional fees from parties.

(6) Process about delivery, partition &c of immoveable property (whether or not paying assessment to Government) may, perhaps with advantage, be executed more largely through the Revenue Department.

(7) If it is found that any higher Court (such as a subordinate Judge's Court with Small Cause jurisdiction over a part of its area of ordinary jurisdiction) has enough work for a special establishment, it may be given one, as there is nothing

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gainedby tacking on this work also to a Munsiff's Court, which may thereupon have to be given increased number of hands to do it.

(8) The presiding officers of the Courts having these establishments should be responsible for the proper allotment of work and the due execution of all the processes received.

It seems to me that if the details are properly worked out, and the so-called Central Nazir's System be abolished, there would be improvement in the manner of doing this work for the parties in Civil Suits.

26th June 1904. Sd-. H.V.Nanjundayya

Judge.

5th day of December 1906.

I have nothing to add to what I have already written. Both Mr.Justice Staley and Mr.Justice Rangaswamy Iyengar ~~~~~ considered that the system needed only minor improvements and should not be interfered with in its main features. I thought that a return to the old system or a larger modification of the present system would be beneficial especially to do away with the system of paying money received by the Court Nazir as witness batta to the Treasury instead of to the Deputy Nazir and then drawing it again by separate cheques.

Sd-. H.V.Nanjundayya.

Judge.

8th day of December 1906.

The Central Nazarat System in force here is not substantially different from that in force in the neighbouring presidency of Madras. So far as I know, it has worked well in that presidency, and there seems no reason why it should not give satisfaction here. Its failure to give satisfaction upto the present time is, in all probability, due to the absence of supervision on the part of the Heads of the Central Nazarats and of

6

the Judges of the Courts to which process establishments are attached. With stricter and closer supervision exercised by them and withthe new rules framed by this Court which are calculated to ensure the exercise of such supervision, a better and more satisfactory state of things may be looked for.

It is, in my opinion, undesirable to place the Central Nazarat under the control of the Munsiffs. It ought to be under the control of the District Judge, or of the Sub Judge in places where there is no District Judge.

Sd-. P.S.Krishna Rao,
Judge.

9th day of December 1906.

I entirely agree with Mr.Justice Krishna Rao. I saw the working of the system in two heavy Courts, ~~When~~ when I was District Judge first of Madura and then of South Malabar and have no doubt that it is a sound system and a great improvement on the old state of affairs. Of course like everything else it requires to be carefully supervised and the Chief Court will do all it can to see that it is properly worked.

Sd-. L. Moore,
Chief Judge.

Copy
for Registrar

Fair draft

7

G.R.S. 28]

cl File No. 142
Serial No. 3

Diary No. of letter replied to 1564

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
( )

, the 190

Date of issue 22-2-07

Signed by A. V. Narasimhaiya

READ.—

1) Summary of discussion at the Representative Assembly in regard to Subject No 33, viz, the suggested abolition of the Central Nazir System on the ground that there is much delay in the service of the processes and in returning to parties the sums remaining unexpended.

2. Letter No 3405/187, dt the 10th Decr 1906, from the Registrar of the Chief Court of Mysore

over

SUBJECT

Copied Comp 22/2/07

MGCPB—20,000—24-2-05

forwarding the opinion of the
Judges in the matter of

Order thereon, No J 2549-57 & 222-07
45-142-06-3

From the opinion of the Judges
read above, it is observed that
the failure of the present system
to give satisfaction is to be
ascribed to the absence of
supervision on the part of the
Heads of the Central Nazarats
and of the Judges of the Courts
to which process establishments
are attached; and that if
with stricter and closer supervision
and with the new rules framed
by the Chief Court a better and more
satisfactory state of things
may be looked for. It is
also understood that the Chief Court
will do all it can to see that
the System is properly worked.
In these circumstances
the Govt Consider that the

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

Central Nazarat system may be given a further trial for another two years on the expiration of which period they will be glad to have a report as to the results of the working of the system and as to any changes that may be found by experience to be necessary therein

(G.O.) K.V.C.
S.E.C.

To The Registrar, Chief Court of Mysore.

" Dy Comrs of Shimoga and Mysore for Communication to the members Concerned